

REMARKS/ARGUMENTS

Claims 2-16, 18-30, 32-39 and 41-53 are pending in this application. Claims 2, 6, 18, 32, 48 are amended in several particulars for purposes of clarity in accordance with current Office policy, to assist the examiner and to expedite compact prosecution of this application. Claims 49 through 53 have been newly added. Claim 40 has been cancelled without prejudice or disclaimer of its subject matter. Applicants have thoroughly reviewed the Office Action and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the claims are believed to be patentable over the cited references.

The amendments and new claims are supported by the drawings in their entirety and the specification.

CLAIM REJECTIONS UNDER 35USC§103(a)

According to MPEP 706.02(j), the following establishes a *prima facie* case of obviousness under 35 U.S.C. §103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In *re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

A. Claims 2-16, 18-30, and 32-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kail (USPN 5,959,529). in view of Chiliwnyj et al. (USPN 6,574,679).

The Applicant respectfully traverses.

The Examiner states that Kail (USPN 5,959,529) teaches a device that provides diagnostic and control capability for equipment from a remote location comprising: an apparatus detached from the equipment comprising a display device, (34, 54; See figure 1) an input device, (28; figure 1) software (82; figure 3) executed by the apparatus and a communications device; (16, 58; See figure 1) and a hardware controller (22;figure 1) attached to the equipment to enable monitoring of the equipment by the apparatus through the communications device, wherein a unique identifier is stored on an embedded memory of the controller, (Col.6, lines 20-21) wherein the unique identifier is compiled using parts of data accommodating decoding (Col. 3, lines 10-14) specific manufacturing configurations of the equipment, the embedded memory including a database of alarm conditions of the equipment and the environmental conditions(col.3, lines 53-56) of the equipment, readable by the apparatus detached from the equipment, the embedded memory including embedded random access memory and embedded electrically erasable programmable read-only memory upon which read and write commands are executed. (Col. 3, lines 44-47).

However, as seen in claim 1, Kail deals with “Apparatus for remotely monitoring and assessing the location and status of a human subject”. Therefore, Kail does not teach the monitoring of equipment, but of a human subject. Further, because Kail is monitoring the status of the human subject, it is not actually controlling the human subject or any other subject.

Kail does not actually teach monitoring or controlling equipment as seen the present claimed invention. Kail does mention “other subjects”, but does not elaborate. However, there is still no teaching of controlling the subject in Kail as seen in the present invention. Since Kail mainly deals with human monitoring, it should not be combined with the tape configuration of Chiliwnjy as the dynamics of the monitoring is quite different and there is no aspect of controlling the actual subject in Kail.

Additionally, Chiliwnjy teaches of configuring a tape drive, but neither Kail or Chiliwnjy teach or suggest of using the monitoring of operating state along with the information in a unique identifier to both control and diagnose the equipment as mentioned in the present claims.

The Examiner states that Kail (USPN 5,959,529) teaches the controller is queried by the apparatus (Col. 8, lines 58-63) and wherein information in the unique identifier accommodating diagnosing and servicing of the equipment. (col. 4, lines 48-53).

However, respectfully, col. 4 , lines 48-53 states “Optionally, a display 34, such as a liquid crystal display...may be provided to signal the user of the portable monitoring unit 12 to take responsive action.” However, looking at the reference as “a whole”, in lines 42-46 of col. 4, states “to allow a user or subject of the portable monitoring unit to provide information to the microprocessor 22”. Therefore, the unique identifier does not accommodate the diagnosing and controlling of the equipment.

B. Claims 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kail (USPN 5,959,529) in view of Hayward (US publication 2003/0023703). The Applicant respectfully traverses.

With regards to claims 44-47, the Examiner states that Kail (USPN 5,959,529) does not specifically disclose specific aspects of the equipment comprise a manufacturer, operating limits, serial number and feature of the equipment as seen in Col.3, lines 11-13 broadly discloses the claim limitations of the above-mentioned claims, but that Hayward (USPUB 2003/0023703) discloses specific aspects of the equipment comprises a manufacturer, serial number) and feature of the equipment. (page 2, paragraph 0025) . However, neither Kail or Hayward use the manufacturing configuration stored in a unique identifier along with the detected operating state information in order to diagnose and control the equipment.

II. Allowable Subject Matter

Claim 48 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The applicants appreciate the examiner's indication of allowability pertaining to claim 48. Claim 48 has amended according to the suggestion of the examiner and therefore, should be allowable.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request that the outstanding rejections be removed. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 202-861-1737 in an effort to resolve any matter still outstanding before issuing another action. The undersigned attorney is confident that any issue which might remain can readily be worked out by telephone.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to our Docket No. 87289.1741.

Respectfully submitted,
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Date: July 2, 2008
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